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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/693,606

10/27/2003

Wolfgang Drahm

6460

23364

7590

12/14/2005

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EXAMINER

BELLAMY, TAMIKO D

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	<b>Application No.</b> 10/693,606	<b>Applicant(s)</b> DRAHM ET AL.	
	<b>Examiner</b> Tamiko D. Bellamy	<b>Art Unit</b> 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 9/2/05.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11, 12, 18, 20, 21, 23-25, 34-38, 40 and 42-45 is/are rejected.
- 7) ☒ Claim(s) 13-17, 19, 22, 26-33, 39, and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. Amendment dated 9/2/05 has been received and entered. Claims 11-45 are currently pending.

#### ***Claim Objections***

2. Claims 28, 33, 36, 37, and 38 are objected to because of the following informalities:
  - a. Claim 28, line 1, change "in the foregoing claim" to – clam 25 --.
  - b. Claim 33, line 1, change "in the foregoing claim" to – clam 25 --.
  - c. Claim 36, line 1, change "in the foregoing claim" to – clam 25 --.
  - d. Claim 37, line 1, change "in the foregoing claim" to – clam 25 --.
  - e. Claim 38, line 1, change "in the foregoing claim" to – clam 25 --.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 11, 12, 18, 21, 23, 25, 34-37, 40, 42, 43, and 45 are rejected under 35

U.S.C. 102(a) as being anticipated by Reading et al. (2002/0026822).

Re claim 11, as depicted in figs. 1-3, Reading et al. incorporates reference (6,085,582) (See Pg. 5, par. 37), which discloses a sensor (e.g., mass flow meter 36) mounted in a wall of a vessel for holding or conveying a process medium (See ref. '582). Reading et al. discloses an electronics case (e.g., housing 20) for meter electronics, which is mechanically, particularly rigidly coupled to the sensor (e.g., mass flow meter 36) (See fig. 1 of ref. '582). As depicted in fig. 1, Reading et al. incorporates reference (6,085,582), which discloses the electronics case (See, '582, e.g., analyzer 28) is intermittently subjected to vibrations transmitted via the sensor (e.g., ultrasonic flow meter 36, See ref. '582, Col. 6, lines 46-58). As depicted in fig. 3, Reading et al. discloses that in order to reduce amplitudes of possible vibrations of the electronics case, a vibration absorber (e.g., dampers 32) which is vibrated at least intermittently in order to dissipate vibrational energy taken into the electronics case (e.g., housing 20) is affixed to a wall of the electronic case (e.g., housing 20) (See Pg. 5, par. 38).

Re claim 12, as depicted in figs. 2 and 3, Reading et al. discloses that vibration absorber (e.g., dampers 32) is positioned at a distance between the electronic case (e.g., housing 20) and the sensor (See ref. 582,e.g., ultrasonic flow meter 36).

Re claim 18, as depicted in fig. 3, Reading et al. discloses that the vibration absorber (e.g., dampers 32) is disposed within the electronics case (e.g., housing 20).

Re claim 21, Reading et al. incorporates reference '582, which discloses that the process meter is an ultrasonic flow meter (Pg, 5, par. 37; See ref'582, Col. 6, lines 46-58).

Re claim 23, Reading et al. incorporates reference '582, which discloses the sensor (e.g., ultrasonic flow meter 36) is mounted in a pipe (e.g., dilute mixture duct 22) (See ref. '582 figs. 1-4).

Re claim 25, as depicted in figs. 1-3, Reading et al. incorporates reference (6,085,582) (See Pg. 5, par. 37), which discloses a sensor (e.g., mass flow meter 36) mounted in a wall of a vessel for holding or conveying a process medium (See ref. '582). Reading et al. discloses an electronics case (e.g., housing 20) for meter electronics, which is mechanically, particularly rigidly coupled to the sensor (e.g., mass flow meter 36) (See fig. 1 of ref. '582). As depicted in fig. 1, Reading et al. incorporates reference (6,085,582), which discloses the electronics case (See, '582, e.g., analyzer 28) is intermittently subjected to vibrations. As depicted in fig. 3, Reading et al. discloses that the vibration absorber (e.g., dampers 32) for reducing amplitudes of vibrations of the electronics case is located within the electronic case (e.g., housing 20) (See Pg. 5, par. 38).

Re claim 34, as depicted in fig. 3, Reading et al. discloses that the vibration absorber (e.g., dampers 32) is affixed to a wall of the electronics case (e.g., housing 20).

Re claims 36 and 37, as depicted in figs. 2 and 3, Reading et al. discloses that vibration absorber (e.g., dampers 32) is positioned at a distance between the electronic case (e.g., housing 20) and the sensor (See ref. 582, e.g., ultrasonic flow meter 36).

Re claim 37, Reading et al. discloses a vibration absorber (e.g., vibration damping means 32), which inherently includes a plastic body affixed to the wall of the electronics case (e.g., housing 20).

Re claim 40, Reading et al. incorporates reference (6,085,582), which discloses the electronics case (e.g., analyzer 28) is rigidly coupled the sensor (e.g., ultrasonic flow meter 36) (See ref. '582, fig. 1).

Re claim 42, as depicted in fig. 1, Reading et al. incorporates reference (6,085,582), which discloses the electronics case (See, '582, e.g., analyzer 28) is intermittently subjected to vibrations transmitted via the sensor (e.g., ultrasonic flow meter 36, See ref. '582, Col. 6, lines 46-58).

Re claim 43, Reading et al. incorporates reference '582, which discloses the sensor (e.g., ultrasonic flow meter 36) is mounted in a pipe (e.g., dilute mixture duct 22) (See ref. '582 figs. 1-4).

Re claim 45, Reading et al. incorporates reference '582, which discloses that the process meter is an ultrasonic flow meter (Pg. 5, par. 37; See ref'582, Col. 6, lines 46-58).

4. Claims 11, 12, 18, 21, 23, 25, 34-37, 40, 42,43, and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by Reading et al. (2002/0026822).

Re claim 11, as depicted in figs. 1-3, Reading et al. incorporates reference (6,085,582) (See Pg. 5, par. 37), which discloses a sensor (e.g., mass flow meter 36) mounted in a wall of a vessel for holding or conveying a process medium (See ref. '582). Reading et al. discloses an electronics case (e.g., housing 20) for meter electronics, which is mechanically, particularly rigidly coupled to the sensor (e.g., mass flow meter 36) (See fig. 1 of ref. '582). As depicted in fig. 1, Reading et al. incorporates reference (6,085,582), which discloses the electronics case (See, '582, e.g., analyzer 28) is

intermittently subjected to vibrations transmitted via the sensor (e.g., ultrasonic flow meter 36, See ref. '582, Col. 6, lines 46-58). As depicted in fig. 3, Reading et al.

discloses that in order to reduce amplitudes of possible vibrations of the electronics case, a vibration absorber (e.g., dampers 32) which is vibrated at least intermittently in order to dissipate vibrational energy taken into the electronics case (e.g., housing 20) is affixed to a wall of the electronic case (e.g., housing 20) (See Pg. 5, par. 38).

Re claim 12, as depicted in figs. 2 and 3, Reading et al. discloses that vibration absorber (e.g., dampers 32) is positioned at a distance between the electronic case (e.g., housing 20) and the sensor (See ref. 582, e.g., ultrasonic flow meter 36).

Re claim 18, as depicted in fig. 3, Reading et al. discloses that the vibration absorber (e.g., dampers 32) is disposed within the electronics case (e.g., housing 20).

Re claim 21, Reading et al. incorporates reference '582, which discloses that the process meter is an ultrasonic flow meter (Pg. 5, par. 37; See ref' 582, Col. 6, lines 46-58).

Re claim 23, Reading et al. incorporates reference '582, which discloses the sensor (e.g., ultrasonic flow meter 36) is mounted in a pipe (e.g., dilute mixture duct 22) (See ref. '582 figs. 1-4).

Re claim 25, as depicted in figs. 1-3, Reading et al. incorporates reference (6,085,582) (See Pg. 5, par. 37), which discloses a sensor (e.g., mass flow meter 36) mounted in a wall of a vessel for holding or conveying a process medium (See ref. '582). Reading et al. discloses an electronics case (e.g., housing 20) for meter electronics, which is mechanically, particularly rigidly coupled to the sensor (e.g., mass flow meter 36) (See

fig. 1 of ref. '582). As depicted in fig. 1, Reading et al. incorporates reference (6,085,582), which discloses the electronics case (See, '582, e.g., analyzer 28) is intermittently subjected to vibrations. As depicted in fig. 3, Reading et al. discloses that the vibration absorber (e.g., dampers 32) for reducing amplitudes of vibrations of the electronics case is located within the electronic case (e.g., housing 20) (See Pg. 5, par. 38).

Re claim 34, as depicted in fig. 3, Reading et al. discloses that the vibration absorber (e.g., dampers 32) is affixed to a wall of the electronics case (e.g., housing 20).

Re claims 36 and 37, as depicted in figs. 2 and 3, Reading et al. discloses that vibration absorber (e.g., dampers 32) is positioned at a distance between the electronic case (e.g., housing 20) and the sensor (See ref. 582, e.g., ultrasonic flow meter 36).

Re claim 37, Reading et al. discloses a vibration absorber (e.g., vibration damping means 32), which inherently includes a plastic body affixed to the wall of the electronics case (e.g., housing 20).

Re claim 40, Reading et al. incorporates reference (6,085,582), which discloses the electronics case (e.g., analyzer 28) is rigidly coupled the sensor (e.g., ultrasonic flow meter 36) (See ref. '582, fig. 1).

Re claim 42, as depicted in fig. 1, Reading et al. incorporates reference (6,085,582), which discloses the electronics case (See, '582, e.g., analyzer 28) is intermittently subjected to vibrations transmitted via the sensor (e.g., ultrasonic flow meter 36, See ref. '582, Col. 6, lines 46-58).



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Re claim 43, Reading et al. incorporates reference '582, which discloses the sensor (e.g., ultrasonic flow meter 36) is mounted in a pipe (e.g., dilute mixture duct 22) (See ref. '582 figs. 1-4).

Re claim 45, Reading et al. incorporates reference '582, which discloses that the process meter is an ultrasonic flow meter (Pg, 5, par. 37; See ref'582, Col. 6, lines 46-58).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 20, 24, 38, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reading et al. (2002/0026822).

Re claims 20 and 38, as depicted in fig.1, Reading et al. discloses the vibration absorber (e.g., dampers 32) is affixed to the wall of the electronics case (e.g., housing 20). While, Reading et al. does not specifically disclose that the vibration absorber is affixed to the electronic casing **particularly with adhesive**, as depicted in fig. 3, Reading et al. discloses that the vibration absorber (e.g., dampers 32) is mounted within a groove of the electronic case (e.g., housing 20) which is formed by joining two portions of the electronic case (e.g., combination of first end plate (24) and shell (22)) (See Pg. 5, par 37, lines 3-5) together. One having ordinary skill in the art knows that using an adhesive as a

means for affixing a component, requires minor skill. Therefore, to employ Reading et al. on an adhesive for affixing a vibration absorber to an electronic case would have been obvious to one of ordinary skill in the art at the time of the invention since this reference explicitly teaches a process meter, which includes a vibration absorber affixed with the wall of an electronic case.

Re claims 24, and 44, Reading et al. discloses that the sensor is mounted within a wall of a pipe. While Reading et al. does not specifically disclose that the sensor is mounted in a wall of a tank, the device of reading would operate equally as well in a tank as opposed to a pipe. The court held in , In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987), that a recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. Therefore, to employ Reading et al. on a mounting a sensor in a wall of a tank would have been obvious to one of ordinary skill in the art at the time of the invention since this reference explicitly teaches a process meter mounted in the wall of a pipe.

***Allowable Subject Matter***

7. Claims 13-17, 19, 22, 26-33, 39, and 41 are objected to as being dependent upon a rejected base claim 11, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Remarks***

8. Applicant's arguments with respect to claims 11, 12, and 18 have been considered but are moot in view of the new ground(s) of rejection. It is the examiners position that claims 11, 12, 18, 20, 21, 23-25, 34-38, 40, 42-45 are not patentable in view of the newly applied art of Reading et al. (2002/0026822).

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamiko D. Bellamy whose telephone number is (571) 272-2190. The examiner can normally be reached on Monday - Friday 7:30 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Tamiko Bellamy

*T.B.*  
December 13, 2005



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